

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHRISTIAN CASTELAN,

Plaintiff,

-against-

CORRECTIONAL OFFICER KEENAN A. JOHN;
CORRECTIONAL OFFICER SHAUN H. KERR;
A-BLOCK SERGEANT BERMANN JOSEPH,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 7/12/2023

7:22-CV-9326 (NSR)

ORDER

NELSON S. ROMÁN, United States District Judge:

The Court is in receipt of *pro se* incarcerated Plaintiff's motion for entry of default judgment against Defendants Correctional Officer Keenan A. John, Correctional Officer Shaun H. Kerr, and A-Block Sergeant Bermann Joseph. (ECF Nos. 19 and 20.) In his notice of motion, Plaintiff states that none of the Defendants has answered the Complaint or filed a defense. (See ECF Nos. 19.)

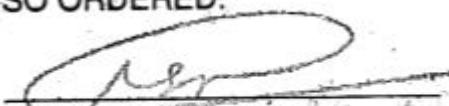
The Court informs *pro se* Plaintiff that Defendant Correctional Officer Keenan A. John filed an answer to the complaint on May 30, 2023 (ECF No. 13.) Defendant Sergeant Bermann Joseph filed an answer to the complaint on July 7, 2023. (ECF No. 18.) Given *pro se* Plaintiff's *in forma pauperis* ("IFP") status, Plaintiff was entitled to rely on the Court and the U.S. Marshal's Service to effect service. *See Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013). As shown on the docket, the U.S. Marshals Service served Defendants Correctional Officer Keenan A. John and Sergeant Bermann Joseph on June 16, 2023 (see ECF Nos. 15 and 16), and therefore, those Defendants were required to respond to the Complaint on or before July 7, 2023.

Service upon Shaun H. Kerr by the U.S. Marshal's Office was attempted and returned unexecuted on March 17, 2023. (ECF No. 9.) The Court therefore issued a supplemental *Valentin*

Order, as amended on July 12, 2023, directing New York Attorney General's Office to ascertain and provide an address for Defendant Shaun H. Kerr so that service can be effectuated or explain why these defendants are not serviceable. (ECF No. 21.) The NYAG was directed to provide the Court with Defendant Shaun H. Kerr address by July 14, 2023. Within 30 days of the Court receiving Defendant Shaun H. Kerr's address, the Court will issue a supplemental order of service as to that Defendant, and that Defendant will be given additional time to respond to the complaint.

Accordingly, the Court therefore DENIES Plaintiff's motion/declaration for default in this action as MOOT as against Defendants Correctional Officer Keenan A. John and Sergeant Bermann Joseph, and PREMATURE as against Defendant Shaun H. Kerr. The Clerk of the Court is directed to terminate the motion at ECF No. 19. The Clerk of the Court is also directed to mail a copy of this order, as well as a copy of ECF Nos. 13 and 18 to *pro se* Plaintiff at the address on the docket and show service on the docket.

Dated: July 12, 2023
White Plains, NY

SO ORDERED:

HON. NELSON S. ROMAN
UNITED STATES DISTRICT JUDGE